



OSA.NO.29 OF 1992

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 28.07.2025

Pronounced on : 02.09.2025

CORAM :

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

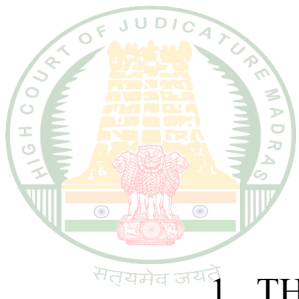
**O.S.A.No.29 of 1992
and
CMP Nos.11854, 18886 & 18885 of 2023
and
CMP.No.1902 of 2010**

- 1 B.C.MUNIRATHINAM NAIDU (DIED)
- 2 M. NITHIANANDAM
- 3 B.M. PURNACHANDAN
- 4 TMT.D.MOHANA LAKSHMI

*(P2 to P4, brought on record as LR's of the deceased
Sole Appellant viz (Munirathinam Naidu) vide order
Of Court dated 30.6.2023 made in CMP.521, 839 to 842/12
in OSA.29 of 1992 by SSSRJ & CKJ)*

... APPELLANTS

Vs

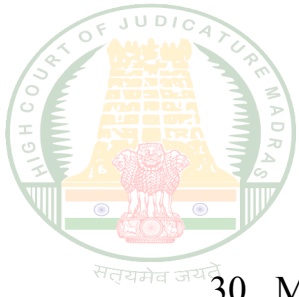


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1 THE OFFICIAL ASSIGNEE OF
WEB COPY MADRAS HIGH COURT MADRAS-104.

2 MR.N.VISWANATHAN
S/O.LATE NAGALINGAM NO.3 VALLUVAR ROAD RANI
ANNA NAGAR ARUMBAKKAM CHENNAI-106.
(R2 SUO MOTO IMPEADED AS
PARTY VIDE ORDER OF COURT
DATED.13.6.23)

- 3 Malarvizhi
- 4 Yami
- 5 Stepan Prasana Kumar
- 6 Indira Kumari
- 7 Ramesh
- 8 Sekar
- 9 Sakthival
- 10 Kala
- 11 Vijaya
- 12 R. Paneerselvam
- 13 Navaneetham
- 14 Manikandan
- 15 Annamal
- 16 Uttami
- 17 Gunasekaran
- 18 Vasuki
- 19 Govindaswamy
- 20 Anbazhagan
- 21 Gandhimathi
- 22 Kalavathi
- 23 Murali
- 24 Kamachi
- 25 Muthu
- 26 Jothi
- 27 Poongavanam
- 28 Jayaraj
- 29 Rani



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30 Mandram

31 PunithaAnthoniyarAllayam (Church) Represented by Fr.wilson Old D.
No. Valluvar Road Rani Anna Nagar
ArumbakkamAminjikai Taluk Chennai-
600 106.

32 K. Jayaraman

33 Radha

34 Karunanidhi

35 Lakshmi

36 Sundaresan

37 Kumaravel

38 Anantha Babu

39 Manikandan

40 P. Viji

41 N.Revathi

42 Saroja

43 Rubavathi

44 Yesudoss

45 Kalavathi

46 Sampath

47 Manjula

48 Vijaya Kumar

49 Kalavathi

50 Anjali Devi

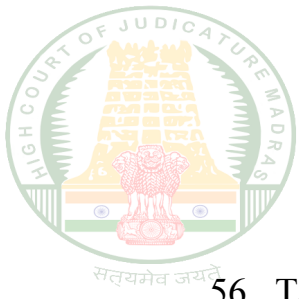
51 Vasanthi

52 Soloman

53 Temple Arulmigu Sri Kanniga
Parameshwari Temple Poompukkar Street
ArumbakkamAminjikai Taluk Chennai -
600 106.

54 P.V. Santhanam

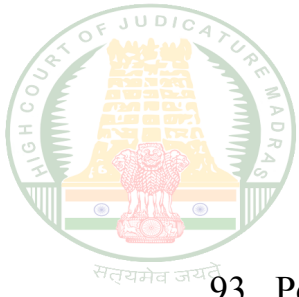
55 Ananthi



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- 56 Tamilmani
- 57 R. Nagaraj
- 58 Kannappari
- 59 T Kumar
- 60 Indrani Rani
- 61 Jeevitha
- 62 Ponnammal
- 63 Kamatchi
- 64 Prabhu
- 65 Ganeshan
- 66 Malathi
- 67 Venkatesan
- 68 Santhakumar
- 69 Padma kumari
- 70 Sundararajan
- 71 Murugammal
- 72 Amutha
- 73 Santhi
- 74 Munniyammal
- 75 Muniyandi
- 76 Sarath Kumar
- 77 Suba
- 78 Ratha
- 79 Amudha
- 80 Kumaran
- 81 Vimala
- 82 Saroja
- 83 Ravathi
- 84 Anthoniammal
- 85 Mary
- 86 Thersa
- 87 Parimala
- 88 Kalaivane
- 89 Jayarj
- 90 Lane
- 91 Srinivasan
- 92 Nithya



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93 Pokkisam Mari

94 Rani James

95 Kamaraj

96 Kiyan Raj

97 Ramalingam

98 Dhagala Ram

99 Dinesh

100 Kalaivani

101 Sri Sakthi VinayagarAlayam

Temple MU. Varadharsanar Street
ArumbakkamAminjikarai Taluk Chennai-
600 106.

102 Bakthavachalam

103 N.Krishnan

104 Mohan

105 Ammu

106 Anbu

107 Ravindran

108 Arputharaj

109 Manikandan

110 Srinivasan

111 Nithish Balaji

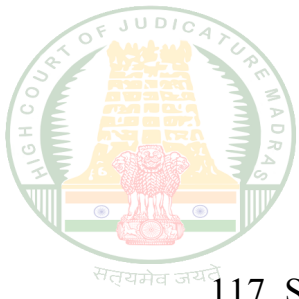
112 Thangaraj

113 Karthi

114 Mohan

115 G.Narayanamurthi

116 U.K.Natarajan



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117 Shanmugam

118 M.A.Prabhakaran

119 Dr.Ram Sankar

120 Vinoth

121 Vijay Ganesh

122 Sridharan

123 Mr. Ponnaiyan

secretary Kavitha Flat owners welfare
Association Block B- 17 to 38 Flats AND
Block C- 39 to 46 Flats 3rd Street SBI
Staff Colony Arumbakkam

124 Mr. Prakash

Treasurer Kavitha Flat owners welfare
Association Block B- 17 to 38 Flats AND
Block C- 39 to 46 Flats 3rd Street SBI
Staff Colony Arumbakkam

125 Rani

126 U. Queen

127 D. Usha

128 A.Venkatesan

129 R.Mageshwari

130 G.V. Baskar

131 R.Chitra

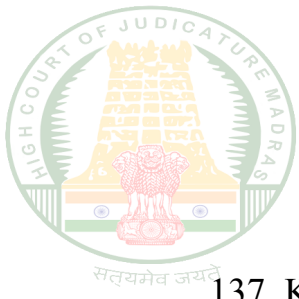
132 G.Pandurangan

133 Ramamoorthy

134 R. Dharani

135 Uthiramuthu

136 M.Ramesh



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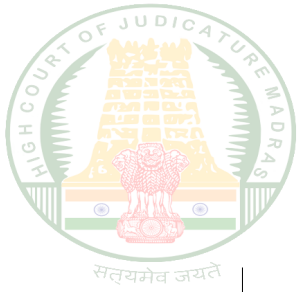
137 K. Sridhar

*(RR3 to 137 suo moto impleaded
as party respondents vide
Order of Court dated 20.1.25
made in CMP.11854/2023
in OSA.29/1992)*

.. Respondents

Prayer in O.S.A.No. 29 of 1992: Appeal filed under Section 8(2)(b) of the Presidency Towns Insolvency Act, III of 1909 against the judgment and order in Appln.No.417 of 1990 in I.P.No.79 of 1972 made by this Court on 09.04.1991.

Case Nos.	For Petitioners/Appellants	For Respondents
CMP.No.1 1854 of 2023	Mr.P.Sheshathri For Mr.V.Jayachandran	Mr.J.Balagopal, (for R32, R44 and R45)
CMP.Nos. 18885 & 18886 of 2023	Dr.K.Kannan	Mr.C.K.Chandrasekar For Mr.A.Sasidharan (for R24, R25, R26, R28, R29, R34, R35, R36, R37, R38, R39, R40, R41, R42, R46, R47, R48, R49, R50, R54, R55, R56, R60 to R82) Mr.R.Srinivasan, Senior Counsel For Mr.J.Jayan (for R105, R106, R108, R111, R125)



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		to R134, R136 & R137) Mr.T.Arun Kumar, (for R33) Additional Government Pleader
	Mr.K.V.MuthuVisakan (Legal Aid Counsel for Appellant)	
OSA.No.2 9 of 1992	Mr.A.Arumugam, (2 nd Petitioner in OSA.No.29 of 1992)	
	Mr.C.P.Sivamohan (for 3 rd Appellant)	
	Mr.Sharath Chandran, Amicus Curiae	
	Mr.P.Dinesh Kumar, Advocate Commissioner	
	Mr.T.Mohan, Senior Advocate For Mr.C.Ramesh, For Official Assignee	



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JUDGMENT

Dr.Anita Sumanth J.

We have heard all learned counsel, who appeared for the parties. We have also had the benefit of the detailed submissions of Mr.Sharath Chandran, learned counsel, who has been appointed as Amicus Curiae in the matter.We place on record our appreciation for him having undertaken the mammoth task of scouring through the various bundles relating to I.P.No.79 of 1972, connected applications and Original Side Appeals. His reports have been of immense benefit in tracing the history of the matter and in assisting us to pen this judgment.

2.The genesis of these applications is I.P.No.79 of 1972 instituted by Meena Financiers before this Court seeking to have B.C.Munirathinam Naidu adjudged insolvent. The petition was instituted on 05.07.1972 and by an order dated 28.11.1973, *C.J.R.Paul, J.* held that B.C.Munirathinam Naidu had committed an act of insolvency within the meaning of Section 9(e) of the Presidency Towns Insolvency Act, 1909 ('Act'). Hence, B.C.Munirathinam Naidu ('insolvent') was adjudged insolvent and that all the estate, comprising largely of 7.89 acres of land



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in Arumbakkam, and other effects of the said insolvent wherever situate, vest in the Official Assignee ('OA').

3.Order dated 28.11.1973 was challenged in O.S.A.No.7 of 1974. Though an ad-interim stay granted by the Division Bench on 06.02.1974, the Division Bench directed that filing of schedule of assets and enquiry in relation to the properties shall continue. The O.S.A. was dismissed on 26.04.1977 by *T.Ramaprasada Rao, Officiating CJ and S.Suryamurthy J*, in *B.C.Munirathinam Naidu v M/s. Meena Financiers and another* a decision reported in 1977 2 MLJ 399.

4.SLP(C)No.2646 of 1979 was filed by the Insolvent before the Supreme Court and notice was issued on 09.04.1979 by *V.R.Krishna Iyer and R.S.Pathak, J.J.*, and stay granted. On 08.12.1980 and 29.03.1982, interim directions were issued by the Supreme Court calling for reports and issuing directions for disposal of the properties and wiping out of the debts of the insolvent. The SLP was closed on 22.04.1985 when three Judges of the Supreme Court vacated the stay that was in subsistence then and passed the following order:

‘.....
25. On 15.07.1984, the encroachers wrote to the OA stating that they were in occupation of the lands in Survey Nos 52, 53 and 54/1, Arumbakkam and agreed to pay a sum



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of Rs. 14,000 per ground. The offer made by the encroachers were placed before the Supreme Court when the matter was taken up on 22.04.1985. The Supreme Court (Y.V.Chandrachud, CJ, A.P Sen and E.S Venkataramiah, JJ) disposed the matter with the following directions:

“On July 15, the slum dwellers who were in charge of the property belonging to the insolvent-petitioner, made a representation through a letter addressed to the Official Assignee, High Court of Madras, offering him to pay Rs 14,000 per ground for the property relating to item No 4. The Official Assignee will consider the question as to whether sale offer should be accepted and negotiate, if possible, for the price that can be obtained for the property. Mr.T.S Krishnamurthy Iyer, who appears on behalf of the petitioner, says that he has no objection if the offer made by the slum dwellers for purchasing the property at Rs 14,000/- is accepted by the Official Assignee. After the property is sold and the sale proceeds deposited, the Official Assignee under the directions and supervision of the Insolvency Court will pay the balance dues of the creditors and if there is any balance will pay over to the insolvent-petitioner. The stay order is vacated.

The Special leave petition will stand disposed of in terms of this order.”

5.The insolvent filed Application No.300 of 1986 seeking annulment of the order of adjudication on the premise that the claims of the unsecured creditors had been paid in full and part payment had been made in respect of the secured creditors for which immovable property



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security had been offered. In that application, the encroachers, who had formed an Association under the name of Rani Anna Nagar Welfare Association ('Association') filed Application No.343 of 1986 seeking their impleadment as parties.

6.The impleadment application was dismissed on 17.08.1987 and in an Appeal filed in O.S.A.No.129 of 1987, the Association was successful under order dated 24.11.1987. Post their impleadment the insolvent and the Association entered into a deed of compromise dated 20.09.1988 that was filed into Court and recorded by *S.T.Ramalingam, J.* under order dated 20.09.1988.

7.Under that order, the OA was permitted to sell the land to those occupants of the property at the rate of Rs.28,750/-. As against 95 encroachers who had signed the compromise deed, 89 persons were parties to sale deeds and 6 persons, who had signed the compromise deed did not come forward to purchase the property. The application for annulment of the order of insolvency was allowed on 06.01.1989, wherein, *S.T.Ramalingam, J.* noted that the insolvent had settled the amount in full to all his creditors.



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8.B.C.Munirathinam Naidu has, since then, been requesting the OA to handover his property to him. The OA however has taken the stand that the lands have been encroached and it was for B.C.Munirathinam Naidu to deal with the encroachers directly.

9.A.Nos.417 and 468 of 1990 were filed by B.C.Munirathinam Naidu seeking directions to the OA to take necessary steps to put on notice those occupiers who have not purchased the lands to vacate and handover physical possession of the lands to him and further seeking directions against four individuals viz., G.Lakshmanan, L.Nallathai, Mari Ammal and Thirumalai Ammal and the OA to surrender possession of the property that they were occupying to the insolvent.

10.The applications were contested by the then OA who reiterated that the insolvent ought to be directed to take proceedings against the occupants under the relevant enactments, without recourse to the High Court and the OA. The OA pointed out that insolvency jurisdiction could not be invoked post annulment of order of adjudication of the individual as insolvent. Those applications were dismissed by *Maruthamuthu, J.* on 09.04.1991, assailing which OSA.Nos.28 and 29 of 1992 were filed by the insolvent.



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11.Miscellaneous Petitions were filed in OSA.No.29 of 1992 seeking appointment of an Advocate Commissioner to survey the lands occupied by certain individuals. The applications were contested by the OA who also attributed ulterior motives to the insolvent alleging that the insolvent only wished to create evidence for eviction of the encroachers from his lands.

12.Two Advocate Commissioners were appointed and reports filed. Only one report of the Advocate Commissioner is available and one report is not traceable per report dated 20.01.2024 of the learned Amicus. Several parties sought impleadment in the matter and reports were also filed by the OA relating to the number of persons who were in occupation of the lands and the extent of lands in their possession.

13.The OSAs were taken up by the Division Bench on 24.08.1994 and in O.S.A.No.29 of 1992, the Bench noted that the OA had prepared a chart of the occupants of the property that was the subject matter of that OSA. After consulting the parties, including the insolvent, the OA had settled the value of the property in possession of each individual. What remained was only to serve a notice of demand of the sale consideration,



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so that the same may be realised and steps taken for execution of the documents of transfer. The OA was directed to do the same.

14.It is to be noted that there is typographical error in paragraph 2 of order dated 24.08.1994 and instead of 'OSA.No.28 of 1992' it should read 'OSA.No.29 of 1992'. Effectively, with this, OSA.No.29 of 1992 had come to an end on the basis of the amicable settlement inter se the parties (between the insolvent and 145 dwellers). The following order had been passed:

'Except in respect of one property which is involved in O.S.A 28 of 1992 we record with satisfaction the proceeding in OSA No.29 of 1992 has come to an end with an amicable settlement.

The Official Assignee has already prepared a chart of the occupants of the property in question in OSA 28 of 1992 and after consulting the parties including the insolvent (the owner of the property), settled the value of the property in possession of each individual. He is now required only to serve a notice of demand on the price so fixed by him upon the settlers so that further steps may be taken for the execution of documents of transfer. Let the Official Assignee accordingly issue notice of demand upon each individual settler fixing a time limit for the same and proceed to complete the formalities of sale/transfer of the property on behalf of the insolvent



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(the owner of the property) no sooner the documents of transfer are properly settled between the parties.

2.O.S.A No.28 of 1992, however, is required to be disposed of as the appellant therein has chosen to contest the fact that the Official Assignee has ever assumed possession of the property in his occupation and that the insolvent was ever the owner of the property in his possession. He has advanced a case of the purchase of the said property according to him from some one who was the owner of the said property.

3.Put up O.S.A 28 of 1992 to-morrow from judgment and O.S.A 29 of 1992 shall be posted again after the Official Assignee will comply with the directions as made to-day

4.Let a copy of this Order be handed over to the Official Assignee by tomorrow.'

15.OSA.No.28 of 1992 was taken up on 25.08.1994 and the following order passed:

'....There is an apparent error, in our view, in such approach of the Insolvency Court. A mere glance to the scheme of the law would reveal that the only obligation the insolvent must discharge is to bring to the notice of the insolvent all information about his assets and even if he has reasons to resist, the Assignee is empowered to dispossess him and take possession of all such assets and if some assets are not disclosed by the insolvent but are otherwise not found, the Assignee has a duty to even to take possession of such assets. The course of events in the instant case reveal that the Assignee was informed about the assets which included the properties in possession of



the respondents 1 to 4 and that the respondents 1 to 4 do not have any title in them is revealed by the fact that atleast two of them applied to the Assignee for settlement of the very lands. There was no occasion for the respondents to approach the Official Assignee if all concerned were not aware that the lands in possession of the respondents belonged to the appellant and that Official Assignee had legally been in possession thereof. In course of the hearing of this appeal, we have given adequate opportunity to the respondents to satisfy us that they have any other source of independent title or a right to possess the properties and called upon the present Official Assignee to show whether he can legitimately say that the lands which are occupied by respondents 1 to 4 do not / did not belong to the appellant and that the Assignee has no obligation to deliver such lands which are, after annulment in his hands, to the appellant. Learned counsel for the respondents has not been able to show even an iota of evidence except the fact that after squatting upon the land, respondents 1 to 4 have created some amenities for themselves which would show that respondents 1 to 4 have no semblance of title in that property. Official Assignee has reported in detail about the occupation by the respondents 1 to 4 of the lands failing with the assets of the insolvent. Thus respondents 1 to 4 are in occupation of assets which the Official Assignee is obliged to hold and return on annulment of the insolvency to the insolvent.

2. We do not see any reason when respondents 1 to 4 have appeared before us and claimed independent right to hold the property to leave the matter of eviction of these respondents, for any future litigation. All other squatters, who have come forward and have been found within the scheme of things under which the Official Assignee, on behalf of the insolvent, can transfer lands to them, have been satisfied and for them separate order has been passed by us in O.S.A.No.29 of 1992. A person, who is



declared insolvent, suffers not only a disqualification if he is adjudged insolvent but also a scar which remains attached to him even after annulment of the adjudication. The residue of the assets, after satisfying the creditors, must reach him, otherwise the proceeding will be treated as an instrument which caused further loss to the insolvent than the law envisaged. The Official Assignee, the insolvent and other squatters, who are in O.S.A.No.29/92 have been shown sufficient maturity. The respondents 1 to 4 in the instant appeal, however, have chosen to contest but without any legitimacy of their occupation of a property which we have found belonged to the insolvent and was in possession of the Official Assignee. They are liable to be evicted by the Official Assignee. They are liable to be evicted by the Official Assignee. Official Assignee shall not be discharged of his responsibilities until he completes the process of eviction of respondents 1 to 4 and delivers possession of the said property to the appellant. The appeal, for the said reason, is allowed. The Official Assignee is directed to forthwith take steps to evict the respondents and if necessary, to take police aid if any resistance is offered by respondents 1 to 4.'

16. On a combined reading of orders dated 24.08.1994 passed in OSA.No.29 of 1992, and order dated 25.08.1994 passed in OSA.No.28 of 1992, the following aspects are clear. In O.S.A 29 of 1992, the Official Assignee was required to serve a notice of demand on the price fixed by the assignee and further steps were to be taken to execute documents of transfer in favour of 145 persons as per the list of the OA dated 27.07.1994. This was to be done no sooner the documents of transfer are



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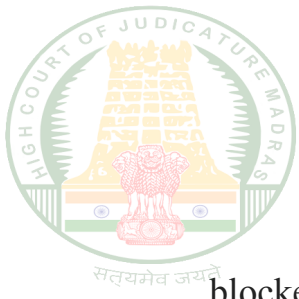
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properly settled between the parties. O.S.A. No.29 of 1992 was thereafter to be put up for compliance of the aforesaid directions.

17.In so far as O.S.A. No.28 of 1992 was concerned, the same was allowed, and G.Lakshmanan and 3 others were directed to be evicted by the Official Assignee with police aid, if necessary. O.S.A. No.28 of 1992 was thereafter to be put up with O.S.A 29 of 1992 for compliance of the aforesaid directions.

18.The aforesaid orders have become final except in relation to a few individuals. G.Lakshmanan and two others had approached the Supreme Court in SLP(C)No.15330 of 1994. The Supreme Court, by order dated 15.09.1994 stayed the operation of order passed in OSA.No.28 of 1992 on 25.08.1994. Five other encroachers also approached the Supreme Court in SLP(C)No.21077 of 1994 and obtained a stay on 28.11.1994 of the operation of the order of the Division Bench dated 24.08.1994.

19.SLP(C) No.7841 of 1995 was filed by an encroacher wherein stay was granted on 27.03.1995 in respect of order dated 24.08.1994. Hence, when the matters were listed before the Division Bench of *Srinivasan & AR.Lakshmanan JJ* they were resisted, and came to be



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blocked for hearing by order dated 01.08.1995, granting liberty to the parties to obtain appropriate directions from the Supreme Court and have the appeals listed before this Court thereafter.

20.OSA.No.28 of 1992 then came up on 03.06.2002 before the Division Bench of *S.Jagadeesan & K.Raviraja Pandian JJ*, they noted that the OSA had already been disposed on 25.08.1994. The Bench also noted that SLP had been preferred before the Supreme Court and an order had been passed in SLP.No.15530 of 1994 on 21.09.1994. The Court recorded the position that as the appeal had already been disposed on 25.08.1994, no further order was necessary. Likewise, a similar order was passed in OSA.No.29 of 1992 on the same day. When the matters were listed before the Supreme Court on 14.01.2004, they were dismissed as not pressed and stay granted earlier was vacated.

21. When Civil Appeal No.14874 of 1996 of G.Lakshmanan had come up before the Supreme Court on 17.02.2004, the possession of G.Lakshmanan was protected subject to payment of Rs.7,50,000/- to the OA for onward transmission to the legal representatives of the insolvent. The legal representatives of G.Lakshmanan have also paid the



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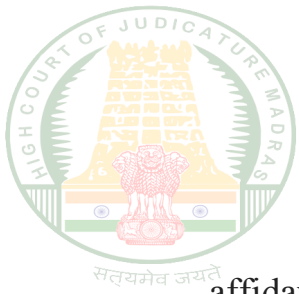
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aforesaid amount and sale deeds have been executed. Hence, nothing survives in OSA.No.28 of 1992 for adjudication of compliance.

22.Based on a letter sent by Sri.K.Ramamoorthy, Senior Advocate, Supreme Court to the OA of this Court on 26.02.2004 pointing out that several sale deeds appear to have been executed by the then OA Mr.V.Nallasenapathy between 2004 and 2019, N.Viswanathan, one of the appellants in Civil Appeal No.14874 of 1996 filed Miscellaneous Petitions before this Court. The prayers in those applications was as follows:

<i>Application No.</i>	<i>Prayer</i>
<i>CMP.No.521 of 2012</i>	<i>To condone delay of 2855 days in filing of the Restoration Application in O.S.A No.29 of 1992</i>
<i>CMP.No.839 of 2012</i>	<i>To set aside ex parte order of dismissal on 03.06.2002</i>
<i>CMP.Nos.840 of 2012</i>	<i>To condone the delay in filing the application to set aside abatement caused due to the death of B.C Naidu</i>
<i>CMP.Nos.841 of 2012</i>	<i>To set aside the abatement caused due to the death of B.C Naidu</i>
<i>CMP.Nos.842 of 2012</i>	<i>To bring on record the LR's of B.C Naidu in O.S.A No.29 of 1992</i>

23.As far as N.Viswanathan is concerned, he had originally agreed to purchase the property that he had been encroaching and had filed an



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affidavit before the OA per the directions of the Division Bench passed in OSA.No.29 of 1992 on 24.08.1994. Having done so, he challenged that very order of the Division Bench before the Supreme Court by way of SLP. Once his appeal before the Supreme Court was dismissed, he sought execution of the sale deed in his favour and filed the above five applications.

24. Notice had been ordered in the petitions and the orders from 25.07.2012 onwards passed by *P.Jyothimani and M.Duraiswamy, J.J.* and subsequent Benches calling for counters to be filed. Barring the present Petitioner, none of the other proposed parties appeared and no counters have been filed. The counter affidavit and memo filed on behalf of B.M.Purnachandran and the reports of the OA are available on file.

25. A memo had been filed by Mr.B.M.Purnachandran along with a compilation containing Will of his father, B.C.Muniratnam Naidu dated 29.08.2002 and an order passed in T.O.S.No.24 of 2005 on 25.08.2010 as per which the petitioner would be the sole beneficiary of the subject assets.

26. In fact, an application in A.No.491 of 2010 had come to be filed by the petitioner seeking a direction to the OA to pay a sum of Rs.90



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lakhs out of the total amount that had been then deposited to the credit of I.P.No.79 of 1972 and *V.Ramasubramanian, J.*, had ordered the application even as early as on 10.01.2011. In light of this position, there is no doubt in our mind that it is only B.M.Purnachandran, who is the sole beneficiary of the subject assets.

27.A report was filed by OA Mr.V.Nallasenapathy setting out the status of the matter. The matter was referred on 10.08.2016 for Mediation by *S.K.Kaul C.J., and R.Mahadevan J.*, which failed. Vide order dated 30.06.2023, all the miscellaneous petitions were ordered, and OSA.No.29 of 1992 was restored to file.

28.Mr.B.M.Purnachandran, then filed CMP.No.11854 of 2003 on 05.06.2003 seeking directions for removal of encroachments on the lands. The prayer in the CMP is as follows:

'For the reasons as stated, it is most respectfully prayed that this Hon'ble High Court be pleased to pass an order, directing the respondent to evict all the intruders/encroachers/hut dwellers in the schedule properties, excepts the 173 people, with police aid and vacant physical possession be given to the petitioner/LRs of the Appellant in OSA, as he is the sole beneficiary, apart from directing the respondent to give the particulars, such as the names of persons,



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extent of the land sold to each of the persons, the amount received from the said persons and copy of the respective sale deeds, including of giving a clear and complete statement of accounts of the estates of the insolvent and release the entire balance payment lying in the said accounts to the petitioner/LRs of the appellant in OSA without any further delay and thus render justice.'

29.It is seen that this prayer is identical to the prayer in Application No.417 of 1990 which has itself been dismissed on 09.04.1991.No doubt that order of dismissal was set aside by the Division Bench on 25.08.1994 in OSA.No.28 of 1992. The report filed by the OA on 20.04.2023 also makes it clear that it was on the intervention of the Supreme Court and the Division Bench that various settlements have been negotiated by the OA qua individual parcels of land of the subject property and thereafter it was only on the order of the Court and qua five of the parties alone that the OA was directed to negotiate the sale of the property, that the intervention of the OA was required.

30.Much water has flown under the bridge thereafter, and the prayer in the Application has been achieved. An Advocate Commissioner had been appointed and the final report filed by Mr.P.Dinesh Kumar,



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learned Advocate Commissioner dated 17.12.2024 identifies and demarcates the parcels of lands as follows:

<i>Sl. No.</i>	<i>Old S.Nos</i>	<i>Extent</i>	<i>Corresponding T.S.No.</i>	<i>Name of the Locality</i>
1.	52	Ac 3.00	Block 22, T.S.No.1/1	Rani Anna Nagar
2.	53/1	Ac 1.17		
3.	54/1	Ac 1.70		
4.	143/2	Ac 0.58	Block 11, T.S.No.45	Dr.Ambedkar Nagar
5.	135/3	Ac 0.61	Block 12, T.S.No.1/4	Mu. Varadharasanar Street,
6.	136 part (Eastern Portion)	Ac 0.29	Block 13, T.S.No.1 Pt, 7 Pt, 8, 9	Elangovadigal Street (part), Thiruvallurvar Nagar & Vivekanandhar Street (part)
6a.	136 part (Western Portion)	Ac 0.26	Block 12, T.S.No.1/6, 1/9/1 Pt, 1/9/2	Kavitha street, Kannappan Nagar, which is a Lane abutting Rajiv Gandhi Street and property on west of Vivekanandhar Street (part)
7.	151/1	Ac 0.24	Block 13, T.S.No.21/1, 21/3 & 21/4	3rd Street, SBI Staff Colony, Arumbakkam

31.The report has annexed therewith, maps as well as pictures of the properties and other documents to evidence the status of the properties. Report of the Advocate Commissioner dated 17.12.2024 along



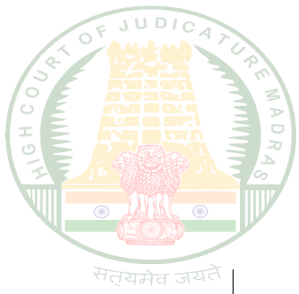
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with Annexures A to G, numbering in all 1 to 123 pages, is made part and parcel of this order.

32.We had sought the latest status of the assets of Mr.Munirathinam Naidu including the sale consideration received and the fixed deposits. The following details have been supplied by the OA:

<i>I.P.No.79 of 1972 in the estate of B.C.Munirathinam Naidu</i>			
<i>Particulars</i>	<i>Debit</i>	<i>Credit</i>	<i>Total</i>
<i>Amount Received by way of Sale consideration towards 89 Sale Deed issued in Phase – I during 1987 – 1989</i>		9,46,539	
<i>Amount Received by way of Sale consideration towards 85 Sale Deed issued during 1994-1995</i>		11,960	
<i>Amount of the three occupants retained as not yet claimed</i>		3,78,573	
<i>Amount received by way of 5 occupants to whom the sale deed has to be executed Rs.61,167/-</i>		61,167	
<i>Sale consideration received as per the Hon'ble Supreme Court Order in Civil Appeal No. 14874/1996 dated 25.08.1994</i>		7,50,000	



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	Total		21,48,239
Two Fixed Deposits were made on 23-11-2005 FD-I Principal Value Rs.5,00,000/- FD-II Principal Value Rs. 10,00,000/-	15,00,000		
FD-I and FD-II were pre-closed on 21.09.2006 and 05.09.2006 respectively with maturity values FD-I: FD-I Rs.5,20,013/- and FD-II : Rs.10,42,001/-		15,62,014	
FD-III was made on 29-09-2006 for a sum of Rs. 15,00,000/-	15,00,000		
Other expenses	5,432		
FD-IV was made on 21-12-2010 for a sum of Rs.7,00,000/-	7,00,000		
FD-III was pre-closed on 28-01-2011 and a sum of Rs.20,96,559/- was received towards maturity value		20,96,559	
LESS: Amount refunded to Purnachandran legal heir of B.C. Munirathinam Naidu on 31.01.2011 Rs. 19,00,000/-	19,00,000		
FD-V was made on 14-03-2013 for a sum of Rs.2,00,760/-	2,00,760		



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<i>FD-IV was pre-closed on 07-01-2014 for a sum of Rs.9,06,131</i>		9,06,131	
<i>FD-VI was made on 09-01-2014 for a sum of Rs.9,06,131/-</i>	9,06,131		
<i>As on date only two active fixed deposits (FD-V & FD-VI) are available in this estate. The same were deposited with Indian Bank, High Court Branch. The details of the fixed deposits are enclosed in the Annexure.</i>		21,21,115	
<i>Available amount</i>			21,21,735
<i>LESS: Reserve (7% Gov. Commission, Legal fees to senior and junior counsels engaged & Publication charges and administrative expenses</i>	3,21,735		
<i>Total available amount</i>			18,00,000

33.A statement of the fixed deposits is as below:

<i>I.P.No.79/1972 – In the Estate of B.C.Munirathinam Naidu Details of Fixed Deposits</i>						
<i>FD. No.</i>	<i>Date of Deposit</i>	<i>Principal Amount</i>	<i>Date of Maturity</i>	<i>Maturity Amount</i>	<i>Interest Accrued</i>	<i>FD Status</i>
1.	23.11.2005	5,00,000	21.09.2006	5,20,013	20,013	Closed
2.	23.11.2005	10,00,000	05.09.2006	10,42,001	42,001	Closed
3.	29.09.2006	15,00,000	28.01.2011	20,96,559	5,96,559	Closed
4.	21.12.2010	7,00,000	07.01.2014	9,06,131	2,06,131	Closed
5	14.03.2013	2,00,760	29.12.2023	4,08,140	2,07,380	Active
6	09.01.2014	9,06,131	29.12.2023	17,12,975	8,06,844	Active
<i>Total</i>					18,78,928	



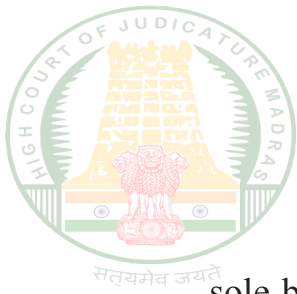
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34.On 18.12.2024, this Court had asked the Secretary, Tamil Nadu Legal Services Authority to appoint a counsel to appear for the legal heirs of B.C.Munirathinam Naidu. However, when the matter came up on the next date, the present Bench, which is, hopefully, the last to hear this matter, on perusing the records appreciated that the petitioner in CMP.No.11854 of 2023 -B.M.Purnachandran, is the sole beneficiary to the assets of Late B.C.Munirathinam Naidu that are the subject of this litigation.

35.At the hearing on 14.02.2025, one Mr.K.V.MuthuVisakan, Legal Aid Counsel, had appeared and sought copies of the relevant papers. This was objected to by learned counsel appearing for Mr.Purnachandran on the ground that the assets forming the subject matter of the insolvency litigation, vested in him. He drew our attention to the order passed in probate jurisdiction in T.O.S.No.24 of 2005 pointing out that his siblings were also part of those proceedings.

36.We have also adverted to this aspect of the matter in paragraph 13 to 27 above while tracing the trajectory of this matter and referred to the documents and court order that make it clear that this Petitioner is the



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sole beneficiary of the assets under this litigation. However, and by way of abundant caution, we had also requested the learned Amicus to compare the schedule of assets under the petition filed before the Insolvency Court, with the assets that devolved on the present petitioner under the Will of Mr.B.C.Munirathinam Naidu and report as to whether there is a match.

37. Under supplemental note dated 05.03.2025, learned Amicus has stated as follows:

‘B. WHETHER THE PROPERTIES IN THE I.P WERE THE SUBJECT MATTER OF THE WILL OF MR. B.C. NAIDU

2. This Hon'ble Court has directed the undersigned to verify whether the properties in the schedule of affairs filed before this Hon'ble Court tallies with the properties stated to have been bequeathed to Mr. Poornachandran by his father late Mr. B.C Naidu under his last will and testament dated 29.08.2000. The following are the items of property in Arumbakkam as set out in the schedule of assets in L.P. No. 79 of 1972:

<i>Survey No.</i>	<i>Ac.Cents</i>
<i>136</i>	<i>0.55</i>
<i>52</i>	<i>3.00</i>
<i>54/1</i>	<i>1.70</i>
<i>53/1</i>	<i>1.17</i>
<i>95</i>	<i>0.12</i>
<i>135</i>	<i>0.61</i>
<i>143/2</i>	<i>0.58</i>
<i>151/1</i>	<i>0.24</i>



Total extent: 7.97.

3. Mr. Munirathinam Naidu had executed his last will and testament dated 29.08.2000 bequeathing all his properties to his son B.M Poornachandran. The properties in Arumbakkam are set out in Schedule I. The other properties in Tiruvallur, Adayanampattu and Vempampattu villages are set out in Schedule II, III and IV respectively. Schedule I lists out the following survey numbers:

Survey No.	Ac.Cents
136	0.55
52	3.00
54/1	1.70
53/1	1.17
135/3	0.61
143/3	0.58
152/3	0.16
Total extent: 8.66 cents	

4. A comparison of the schedule of assets filed in IP 79 of 1972 and Schedule I of the Will of Munirathinam Naidu brings out the following discrepancies:

Survey Nos 95 & 151/1 in the schedule of assets do not find a place in the Will.

Survey No 152/3 in the Will does not find a place in the Schedule of Assets

Survey No 143/2 comprising of 58 cents in the schedule of assets has been described as Survey No 143/3 in the Will.

5. It is submitted that the records also disclose that B.M Poornachandran had filed a petition before this Hon'ble Court



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in OP 244 of 2004 seeking letters of administration in respect of the estate of his father Mr. B.C Naidu under his last Will and Testament. The elder son of B.C Naidu, Mr. Nithyanandan, who was examined in open court before Mr. Justice Periya Karupiah on 25.08.2010 has consented to the grant of letters of administration in favour of his brother Mr. B.M Poornachandran.

6. In his application before this Hon'ble Court in Application 417 of 1990 (out of which the instant appeal arises), Mr. B.C Naidu has sought possession of the following items of property from the Official Assignee:

S.No.	Survey No.	Extent
1.	136 (part)	0.29 out of 0.79 (Western portion)
2.	136 (part)	0.29 out of 0.75 (Eastern portion)
3.	52	3.00
4.	53/1	1.17
5.	54/1	1.70
6.	95/4	0.12
7.	140	0.89
8.	152/3	0.16
9.	135/3	0.61
10	143/2	0.58
Total		8.78 acres

7. It is submitted that Survey Nos 140 and 152/3 were sold by B.C Naidu prior to 1972 ie., even before the IP was filed. This has been admitted by his son BM Poornachandran in paragraph 10 of his affidavit in CMP 11854 of 2023 (Page 392



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of Vol 2). He has also admitted that Survey No 95/4 was sold in 1994. In paragraph 22 of his affidavit in CMP 11854 of 2023, Poornachandran has sought possession of the lands in Survey No 151/1 which does not find a place in the properties set out in Application 417 of 1990 filed by B.C Naidu.'

38.Having carefully considered the above Report, we believe that nothing further need be stated in regard to this aspect of the matter. If there are any further issues that arise in this regard, the parties will work out their remedies in that regard independently and such issues, if any, need not detain either us, or this litigation, any further.

39.At the hearing on 24.04.2025, we had docketed that the learned counsel for the petitioner sought a few days' time to peruse the final report of the Advocate Commissioner and compare the same with the report of the Amicus Curiae and on 28.04.2025, we had reserved Judgment. However, in the course of vacation,it appears that OA had filed one more report for correction of certain errors in the earlier report filed. A Report had been filed on 02.06.2025 with an Annexure and we were hence constrained to list the matter 'for clarification' in order to ensure that all other parties had had the benefit of the same and to extend an opportunity of hearing to them. At that hearing, the learned counsel for the petitioner wished to file a rejoinder for which he was granted time.



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40.On 07.07.2025, the following order had been passed:

'The Official Assignee has filed a report dated 02.06.2025 along with Annexure, wherein they state that an amount of Rs.3,93,382/- is retained towards future expenses. One of the items is a sum of Rs.2,09,117/- under the narration 'amount to be paid to the Income Tax Department (if any arises)'. However, learned counsel for the Official Assignee has confirmed orally that there is no demand as on date from the Income Tax Department. They are directed to file an affidavit confirming the same within a week from today.

2.In light of their oral confirmation, a revised statement shall be filed excluding a sum of Rs.2,09,117/-, which is now liable to be returned to the petitioner.

3.As required under serial No.7 of their report, the petitioner will also file an undertaking to the effect that all further expenses in respect of statutory dues, Government charges and other expenses in relation to the property will now be met by the petitioner. Such affidavit will be filed within a period of one week from today.

4.List on 14.07.2025 under the caption 'to receive documents as per docket order dated 07.07.2025.'

41.On 14.07.2025, the following order had been passed:

'Read this order in continuation of and in conjunction with order dated 07.07.2025.

2.Annexure – 1 filed along with report dated 26.06.2025 reads as follows:

<i>I.P.No.79 of 1972 B.C.Munirathinam Naidu</i>		
<i>Sl.N o.</i>	<i>Particulars</i>	<i>Amount</i>



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I.P.No.79 of 1972 B.C.Munirathinam Naidu		
1	<i>Legal fee to be paid to Senior Advocate T.Mohan</i>	60,000
2	<i>Legal fee to be paid to Advocate C.Ramesh</i>	50,000
3	<i>2% interest on Fixed Deposit reserved for Contingency Fund</i>	24,265
4	<i>Administrative expenses including publication charges</i>	20,000
5	<i>5 occupants sale amount deposited with the Official Assignee section in the year 1994 (Total sqft. - 2,916/-)</i>	30,000
6	<i>Amount to be paid to income tax department (if any, arises)</i>	2,09,117
		3,93,382

42.On 07.07.2025, the following order was passed:

The Official Assignee has filed a report dated 26.06.2025 along with Annexure, wherein they state that an amount of Rs.3,93,382/- is retained towards future expenses. One of the items is a sum of Rs.2,09,117/- under the narration 'amount to be paid to the Income Tax Department (if any arises)'. However, learned counsel for the Official Assignee has confirmed orally that there is no demand as on date from the Income Tax Department. They are directed to file an affidavit confirming the same within a week from today.

2.In light of their oral confirmation, a revised statement shall be filed excluding a sum of Rs.2,09,117/-, which is now liable to be returned to the petitioner.



3.As required under serial No.7 of their report, the petitioner will also file an undertaking to the effect that all further expenses in respect of statutory dues, Government charges and other expenses in relation to the property will now be met by the petitioner. Such affidavit will be filed within a period of one week from today.

4.List on 14.07.2025 under the caption 'to receive documents as per docket order dated 07.07.2025.

4.Today, a report dated 10.07.2025 is filed where the following annexures have been filed.

Annexure – I : Statement of Accounts

Annexure – II: Bill for professional services rendered by Mr.T.Mohan, Senior Advocate.

Annexure – III: Bill towards professional fees for drafting various reports by Mr.C.Ramesh, Advocate.

Annexure – IV: Details of five occupants to whom sale consideration yet to be returned. [as balance amount not paid within the stipulated time]

Annexure – V: Details of five occupants to whom sale deed to be executed by Official Assignee [Fully paid]

5.We find variation between the annexure filed on 26.06.2025 and the one filed on 10.07.2025. On a comparison, we find several items which do not figure in the earlier annexure, present in the present annexure. In fine, the amount to be retained by the Official Assignee is one and half lakhs less than what it was under the first annexure. We are thoroughly dissatisfied with the interest shown by the Official Assignee as well as the gross errors in the computations furnished.



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6. On enquiry, Mr. Ramesh, learned counsel for Official Assignee informs us that there is an accounts department attached to the Official Assignee's office comprising three accountants. There is also an external auditor. In these circumstances, such errors should not have transpired, particularly, while dealing with the estates of the third parties.

7. A last opportunity is given to the Official Assignee to file a correct and complete report ensuring that there are no errors after reconciliation of the annexures filed. The report must be duly authenticated by the Chartered Accountant and filed within a period of two (2) weeks from today. We are also inclined to put the office of the Official Assignee to terms, to be quantified.

8. The petitioner is also required to file an affidavit, per paragraph 3 of order dated 07.07.2025, for which some time is sought. Final opportunity is granted to file the same, prior to the next date of hearing.

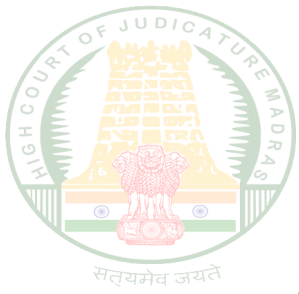
9. List on 28.07.2025 at 2.15 p.m. '

43. On 28.07.2025, an affidavit has been received from the petitioner reading thus:

'I, B M Purnachandran, son of late B C Munirathinam Naidu, Hindu, aged about 62 years, residing at Old No.218 & New No.2, "F" Block, 1st Street, Anna Nagar East, Chennai 600 102, do hereby solemnly affirm and sincerely state on oath as under:

1) I state that I am the petitioner/legal representative of the deceased appellant, late B C Munirathinam Naidu, who is my father and as such I am conversant with the facts of this case. Hence, I am swearing to this affidavit.

2) I state that humble statement of the petitioner/sole beneficiary and typed set of documents filed before this



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Hon'ble Court dated 07/04/2025, memo dated 24/04/2025, rejoinder dated 28.04.2025, rejoinder dated 16/06/2025 and rejoinder dated 22/06/2025 may be read as part and parcel of this affidavit.

3)I state that as per the affidavit of the Official Assignee dated 23/07/2025, which was served on my counsel on 25/07/2025, there is no demand from income tax deposit and hence, I am entitled to get refund of the amount Rs.2,09,117/- earmarked to make payment to the income tax department and in the event of any demand is made in future out of the said amount, I shall undertake to make payments and other expenses, if any arises in the matter. Hence, this affidavit in compliance of the order of this Hon'ble High Court dated 07/07/2025.'

44.A final report has been filed on 25.07.2025 by OA that reads as follows:

'1. It is most respectfully submitted that pursuant to the directions of this Hon'ble Court dated 14.07.2025 made in C.M.P.Nos. 11854, 11885 and 11886 of 2023 and C.M.P.No. 1902 of 2010 in the above O.S Appeal, this Additional Report is being filed, after reconciling the annexures filed earlier with the help of an auditor. It is further submitted that as directed by this Hon'ble Court, a separate affidavit confirming that there is no demand from the Income Tax Department in the Estate of B.M.Munirathnam Naidu till date, has also been filed.

2. It is submitted that a Report dated 26.06.2025 along with an Annexure shows a sum of Rs.3,93,382/- has been reserved for "future expenses". It is submitted that the sum of Rs.2,09,117/- shown in S.No.6 of the Annexure dated



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26.06.2025 under the heading as amount to be paid to the income tax department, is now excluded.

3. A Tabular statement of the annexures filed along with the two Reports viz., 26.6.2025 and 10.07.2024 is set out as under:-

S.No.	Particulars	Amount to be retained by the office of Official Assignee as per Report dated 26.06.2025	Amount to be retained by the office of Official Assignee as per Report dated 10.07.2025
1	Legal fee to be paid to Senior Advocate Mr.T.Mohan	Rs.60,000/-	Rs.60,000/-
2	Legal fee to be paid to Advocate Mr.C.Ramesh	Rs.50,000/-	Rs.50,000/-
3	7% Government Commission	Not reserved	Rs.99,010/-
4	2% Interest on Fixed Deposit reserved for Contingency Fund	Rs.24,265/-	Rs.23,627/-
5	Administrative Expenses including publication charges	Rs.20,000/-	Rs.20,000/-
6	5 occupants sale amount deposited with the Official Assignee section in the year 1994 (Total Sq ft 2,916)	Rs.30,000	Excluded Since this forms part of the amount available in the estate
7	Amount to be paid to income tax department	Rs.2,09,117/-	Excluded
	Total	Rs.3,93,382/-	Rs.2,52,637/-

4. It is submitted that the amount now retained by the Official Assignee for future expenses is Rs.2,52,775/- and the details as to how the said amount has been arrived is explained by the External Auditor along with his certificate. As already submitted, the amount lying to the credit of the



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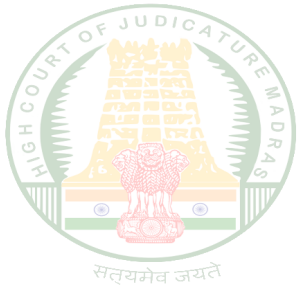
*Insolvent in the Estate is Rs.23,20,222/- and if the sum of Rs.2,57,775/- is deducted, the amount liable to be refund to the legal heir of the Insolvent is Rs.20,67,447/-. The Details of the same are enclosed herewith in the **Annexure**.*

5. The above facts are placed before this Hon'ble Court and it is prayed that this Hon'ble Court may be pleased to pass appropriate orders and thus render justice.'

45.In light of the aforesaid detailed narration and discussion, we are of the categoric view that at this distance of time and in light of the history that this matter has seen over the years, the OA attached to this Court has no further role to play as far as this matter is concerned. The prayer sought in CMP.No.11854 of 2023 has now been fully achieved. As may be seen from the trajectory that the matter has taken over the years, the matter has attained a quietus as on date and the role of the OA comes to an end.Let the amount quantified as refundable be paid over to the Petitioner within four (4) weeks from today.

46.CMP.No.11854 of 2023 is closed. All other miscellaneous petitions are closed.

47. In light of the orders as above, nothing survives today in OSA.No.29 of 1992 and the same is also closed. No costs. With this, the curtains fall on a five decade old litigation.



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[A.S.M., J] [C.K., J]
02.09.2025

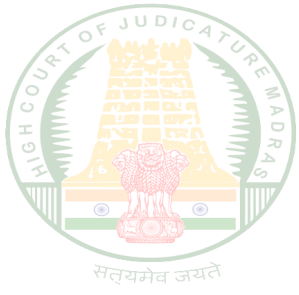
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Index:Yes
Speaking Order
Neutral Citation:Yes
vs

To

1.The Sub Assistant Registrar,
Original Side,
High Court, Madras.

2.The Official Assignee,
High Court, Madras.



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OSA.NO.29 OF 1992

DR. ANITA SUMANTH.,J.
and
C.KUMARAPPAN.,J.

VS

O.S.A.No.29 of 1992 and
CMP Nos.11854, 18886 & 18885 of 2023 and
CMP.No.1902 of 2010

02.09.2025